

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff

v.

TITUS-WILL FORD SALES, INC.,

Defendant

CIVIL ACTION NO.

COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act, as amended by the ADA Amendments Act of 2008, 42 U.S.C. § 12101 *et. seq.*, (ADA and ADAAA) to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Lucas Perry, who was adversely affected by such practices. The Equal Employment Opportunity Commission (EEOC or Commission) alleges that Titus-Will Ford Sales, Inc. (Defendant) discriminated against Mr. Perry, a qualified individual with a disability, when it terminated him from his employment on October 14, 2017.

JURISDICTION AND VENUE

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2 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,
3 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the ADA,
4 42 U.S.C. § 2000e-5(f)(1) and (3) (Title VII), and pursuant to Section 102 of the Civil Rights Act
5 of 1991, 42 U.S.C. § 1981a.

6 2. The employment practices alleged to be unlawful were committed within the
7 jurisdiction of the United States District Court for the Western District of Washington.
8

PARTIES

9
10 3. Plaintiff, the Equal Employment Opportunity Commission, is the agency of the
11 United States of America charged with the administration, interpretation, and enforcement of
12 Title VII, and is expressly authorized to bring this action by Sections 107(a) of the ADA, 42
13 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII, 42
14 U.S.C. 2000e-5(f)(1).
15

16 4. At all relevant times, Defendant has been a corporation continuously doing
17 business in the State of Washington and employing at least fifteen (15) employees.

18 5. At all relevant times, Defendant has continuously been an employer engaged in an
19 industry affecting commerce under Section 101 (5) of the ADA, 42 U.S.C. §12111(5), and
20 Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections 701
21 (g) and (h) of Title VII, 42 U.S.C. §§2000e(g) and (h).
22

23 6. At all relevant times, Defendant has been a covered entity under Section 101(2) of
24 the ADA, 42 U.S.C. § 12111(2).
25

ADMINISTRATIVE PROCEDURES

7. More than thirty (30) days prior to the institution of this lawsuit, Lucas Perry filed a charge of discrimination with the Commission alleging that Defendant discriminated against him in violation of the ADA.

8. By letter dated July 3, 2018, the Commission issued to Defendant a Determination finding reasonable cause to believe that Defendant violated the ADA and invited Defendant to join with the EEOC in informal methods of conciliation to endeavor to eliminate the discriminatory practices and provide appropriate relief.

9. The EEOC communicated with Defendant to provide Defendant the opportunity to remedy the discriminatory practices described in the EEOC's Letter of Determination.

10. The EEOC was unable to secure from Defendant a conciliation agreement acceptable to the Commission.

11. By letter dated September 12, 2018, the EEOC issued to Defendant notice that efforts to conciliate were unsuccessful and that further conciliation efforts would be futile or non-productive.

12. All conditions precedent to the institution of this lawsuit have been fulfilled.

STATEMENT OF CLAIMS

13. Since at least October 14, 2017, Defendant has engaged in unlawful employment practices in violation of Section 102(a) of Title I of the ADA, 42 U.S.C. § 12112(a). Defendant discriminated against Lucas Perry when it terminated his employment because of his actual disability and because it regarded him as disabled in violation of section 102(a) of the ADA.

1 14. Mr. Perry is a qualified individual with a disability who, under sections 3 and 101(8)
2 of the ADA, 42 U.S.C. §§ 12102 and 12111(8), can perform the essential functions of the
3 position with or without reasonable accommodation.

4 15. Mr. Perry is qualified for this position because he had experience working as a car
5 salesperson for two years prior to working at Defendant.

6 16. Perry was diagnosed with Pituitary Macroadenoma which is a tumor that occurs in
7 the pituitary gland. Perry's tumor substantially limits the operation of major bodily functions
8 including, but not limited to, the endocrine system.
9

10 17. Mr. Perry began working for Defendant on October 10, 2017.

11 1786. On October 11, 2017, Mr. Perry requested the day off on October 13, 2017
12 because, as he disclosed to Defendant, he needed to undergo an MRI.

13 19. On October 13, 2017, Mr. Perry underwent an MRI examination.

14 20. On October 14, 2017, Mr. Perry informed Defendant's managers that his MRI
15 revealed that he had a brain tumor.
16

17 21. Defendant terminated Mr. Perry's employment on October 14, 2017.

18 22. Defendant terminated Mr. Perry because of his actual disability and because it
19 regarded him as disabled in violation of 42 U.S.C. §§ 12112(a).

20 23. The effect of the practices complained of in paragraphs 13 through 22 above has
21 been to deprive Lucas Perry of equal employment opportunities and otherwise adversely affect
22 his status as an employee because of his disability.
23

24 24. The unlawful employment practices complained of in paragraphs 13 through 22
25 above were intentional.

1 25. The unlawful employment practices complained of in paragraphs 13 through 22
2 above were committed with malice or with reckless indifference to the federally protected rights
3 of Lucas Perry.

4 **PRAYER FOR RELIEF**

5 Wherefore, the Commission respectfully requests that this Court:

6 A. Grant a permanent injunction enjoining Defendant, its officers, servants, employees,
7 attorneys, all persons in active concert or participation with it, and successors, from engaging in
8 any employment practice that discriminates based on disability.
9

10 B. Order Defendant to institute and carry out policies, practices, and programs which
11 provide equal employment opportunities for qualified individuals with disabilities, and which
12 eradicate the effects of its past and present unlawful employment practices.

13 C. Order Defendant to make whole Lucas Perry by providing appropriate back pay with
14 prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary
15 to eradicate the effects of its unlawful employment practices, including but not limited to front
16 pay.
17

18 D. Order Defendant to make whole Lucas Perry by providing compensation for past and
19 future pecuniary losses resulting from the unlawful employment practices described in
20 paragraphs 13 through 22 above, including job search and related expenses, in amounts to be
21 determined at trial.

22 E. Order Defendant to make whole Lucas Perry by providing compensation for past and
23 future non-pecuniary losses resulting from the unlawful employment practices described in
24
25

1 paragraphs 13 through 22 above, including emotional pain, suffering, inconvenience, loss of
2 enjoyment of life, and humiliation, in amounts to be determined at trial.

3 F. Order Defendant to pay punitive damages for its malicious and reckless conduct, as
4 described in paragraphs 13 through 22 above, in amounts to be determined at trial.

5 G. Grant such further relief as the Court deems necessary and proper in the public
6 interest.

7 H. Award the Commission its costs in this action.

8
9 **JURY TRIAL DEMAND**

10 The Commission requests a jury trial on all questions of fact raised by this Complaint.

11 DATED this 24th day of September, 2018.

12
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